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APR 12 2004

REQUEST FOR RECONSIDERATION
IN RENEWED PETITION TO MAKE SPECIAL

Title: Portable Dressing Blind and Method of Use
Applicant: William Edward Windham
Application # 10/687,330 Filed 10-16-2003

Introductory Remarks

Applicant's petition to make special was received by the USPTO on 12-01-2003. A dismissal of this petition was mailed from the USPTO on 3-22-2004. The dismissal required a more detailed discussion of how the claimed subject matter is patentable over each of the references cited by Applicant. A renewed petition is provided below incorporating the required detail. Applicant requests reconsideration of this petition in view of details provided on the Applicant's claim elements relative to each reference below.

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PETITION TO MAKE SPECIALRECEIVED
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Title: Portable Dressing Blind and Method of Use
Applicant: William Edward Windham
Application # 10/687,330 Filed 10-16-2003

Applicant hereby respectfully petitions that the above application be made special under MPEP 708.02 for the following reason; attached are supporting statements and documentation as required:

VIII. Special Accelerated Examining Procedure: A pre-examination search was done.

The petition fee of \$130 was previously paid by check #6371.

Respectfully,

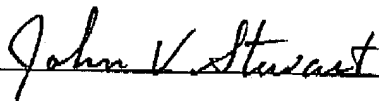


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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703-872-9306 on 04-12-2004 by John V. Stewart

Signature: _____



SUPPORTING STATEMENTS UNDER MPEP 708.02 VIII

- a) Petition is enclosed, the fee was previously paid as set forth in 37 CFR 1.17(h).
- b) All the claims in this application are directed to a single invention.
- c) A pre-examination search was made. A search report is included below, listing the fields of search by class and subclass.
- d) A copy of each reference listed in the search report was provided previously.
- e) A detailed discussion of the references deemed by Applicant to be most closely related to the subject matter encompassed by the claims of the present application follows:

APPLICANT'S INVENTION

The invention is a blind for changing clothes on the beach. It has three rigid rods 1-3 that are inserted in a continuous sleeve around 3 sides of a closed curtain at the top. In operation, a friend holds the two side rods 1 and 3 parallel to each other at head height. This forms a U shaped temporary frame of rods, on which the curtain hangs in the form of a square tube. The user steps inside this tube, before or after it is raised, and changes clothes.

The rods are not attached to each other, so they can be easily folded against each other along with the curtain top. Then the curtain is rolled around the rods into a compact roll for storage. This roll is only the length of a rod (about 30") and about 4" thick.

Points of novelty of Applicant's dressing blind:

- 1) A second person holds up the blind. It is not self-supporting like a tent.
- 2) Only three rods are used around the top, forming a temporary U-shaped suspension frame. No other frame element is used.
- 3) The rods are simple and smooth, without connectors or protrusions of any kind.
- 4) The rods are not attached to each other, but are held loosely end-to-end by a common sleeve
- 5) The rods easily slide out of the sleeve at one end. This allows machine-washing of the fabric. The fabric has no other rigid components.
- 6) A flap 8 at the bottom of the front panel 4 allows the support person to hold down the front of the blind to prevent billowing of the blind in the wind. The support person stands on this flap with his/her back to the wind.

SEARCH REPORT

The searcher found relevant prior US patents in a search of the following classes and subclasses:

2/89
43/1
52/63
52/71
135/16
135/88.13
135/90
135/98
135/99
135/125
135/141
135/143
135/153

DISCUSSION OF PRIOR ART REFERENCES

US 1,288,518 (Collier 1918) Portable Dressing Cabinet

This dressing cabinet has fabric side panels that are laterally contiguous. A fabric top is attached to the upper end of one side panel. A fabric floor is attached to the lower end of one side panel. Vertical posts support the side panels at each vertical edge between two panels. Horizontal braces separate the tops of the posts. The vertical posts are collapsible, and the cabinet can then be rolled into a compact bundle.

In terms of Applicant's claim 1 elements, Collier does not provide a plurality of rods inserted in a sheath around a first open end of a flexible tube. Collier does not disclose a method of standing on a flap on the second end of the tube and manually gripping the sheath to hold the first and last rods apart and approximately parallel.

Elements of Applicant's original claims that are lacking in Collier:

Claim 1: elements b), e), and especially f)

Claim 2: second, fourth, fifth, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the "opening" of claim 4

Claim 5: second, third, and especially the fifth element

Claim 6: the whole method of claim 6

US 1,409,316 (Smith 1922) Bathing Tent

This is a circular tent with a central vertical support pole. The tent wall is a conic fabric shell with a vertical slit for access. The support pole is in sections, with a spade at the bottom for insertion into the ground, and a pin at the top for insertion through a small metal ring held centrally in the apex of the fabric by straps to support the fabric. The bottom of the tent has a ring of pockets for ballast such as sand.

In terms of Applicant's claim 1 elements, Smith does not provide a plurality of rods inserted in a sheath around a first open end of a flexible tube. Smith does not have a flap attached to the second open end of the flexible tube. Smith does not disclose a method of standing on the flap and manually gripping the sheath to hold the first and last rods apart and approximately parallel.

Elements of Applicant's original claims that are lacking in Smith:

Claim 1: elements b), c), e), and especially f)

Claim 2: first, second, third, fourth, fifth, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the opening of claim 4

Claim 5: first, second, third, fourth, and fifth elements

Claim 6: the whole method of claim 6

US 1,466,166 (Hodgson 1923) Portable Dressing Tent

This tent has a horizontal rectangular top frame, from which hang flexible sides. The occupant supports the frame by means of a strap on the occupant's head or by resting the frame on the occupant's shoulders. No vertical support frame is provided. The bottom of the hanging sides may be staked to the ground. This device is impractical for changing any garment that is pulled over the user's head.

In terms of Applicant's claim 1 elements, Hodgson does not provide a flap on the second end of the flexible tube. Hodgson does not disclose a method of standing on the flap and manually gripping the sheath to hold the first and last rods apart and approximately parallel.

Elements of Applicant's original claims that are lacking in Hodgson:

Claim 1: elements c), and especially f)

Claim 2: the opening of the second element. the third element.

Claim 3: the whole method of claim 3

Claim 4: the "opening" of claim 4

Claim 5: the fourth element. Hodgson's Figs 5 - 6 also lack the fifth element.

Claim 6: the whole method of claim 6

US 1,713,439 (Klyaich 1929) Portable Shelter

This is a rectangular tent having four vertical support posts interconnected at the top by 4 hinged rods and likewise at the bottom, forming a rigid rectangle over which fabric is attached.

In terms of Applicant's claim 1 elements, Klyaich does not provide a sheath around a first open end of a flexible tube, or a plurality of rods inserted in such a sheath. Klyaich does not provide a flap on the second end of the tube, or disclose a method of standing on a flap and manually gripping the sheath to hold the first and last rods apart and approximately parallel.

Elements of Applicant's original claims that are lacking in Klyaich:

Claim 1: elements b), c), e), and especially f)

Claim 2: the second, third, fourth, fifth, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the "opening" of claim 4

Claim 5: the second, third, fourth, and fifth elements.

Claim 6: the whole method of claim 6

US 1,804,190 (Wendel 1931) Portable Dressing Shield

This is a curtain that hangs from a horizontal polygonal frame supported by the occupant's head or shoulders.

In terms of Applicant's claim 1 elements, Wendel does not provide a plurality of rods inserted in a sheath around a first open end of a flexible tube. Wendel does not disclose a method of standing on a flap on the second end of the tube and manually gripping the sheath to hold the first and last rods apart and approximately parallel.

Elements of Applicant's original claims that are lacking in Wendel:

- Claim 1: elements b), c), e), and especially f)
- Claim 2: the second, third, fourth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the opening of claim 4
- Claim 5: the second, third, and fourth elements.
- Claim 6: the whole method of claim 6

US 2,027,551 (Rideout 1936) Automobile Dressing Beach Tent

This is a tubular curtain with a closed top that slips over, and hangs from, a circular or square horizontal frame. The frame has a central hook that extends upward through a small hole in the top of the curtain. The hook is suspended from a hanger arm attached to a car window that extends outward beside the car.

Elements of Applicant's original claims that are lacking in Rideout:

- Claim 1: elements b), c), e), and especially f)
- Claim 2: the second, third, fourth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "opening" of claim 4
- Claim 5: the second, third, and fourth elements.
- Claim 6: the whole method of claim 6

US 2,167,861 (Zimmern et al. 1939) Foldable Cabinet

This is a curtain that hangs from two parallel horizontal rods, causing the curtain to hang in a rectangular tubular shape. The curtain has pockets near the bottom of the fabric for ballast to prevent blowing of the fabric in the wind. A vertical pole staked into the ground outside the curtain has arms above the blind that hold the two parallel rods.

Elements of Applicant's original claims that are lacking in Zimmern:

- Claim 1: element c), and especially f)
- Claim 2: the second, third, and fifth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "opening" of claim 4
- Claim 5: the second, third, fourth, and fifth elements.
- Claim 6: the whole method of claim 6

US 2,221,366 (Bisbing et al. 1940) Umbrella Robe

This is an umbrella with a curtain that hangs from the circumference of the umbrella and encloses an occupant to protect them from rain. It is not usable for dressing.

Elements of Applicant's original claims that are lacking in Bisbing:

- Claim 1: elements a), b), c), e), and especially f)
- Claim 2: the second, third, fourth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "opening" of claim 4
- Claim 5: the first, second, third, fourth, and fifth elements.

Claim 6: the whole method of claim 6

US 2,594,410 (Feldpausch 1952) Hunter's Blind

This is a cylindrical topless and bottomless blind supported on a foldable frame with vertical side poles and spring loops at top and bottom to hold the fabric in shape. The fabric is separable from the frame.

Elements of Applicant's original claims that are lacking in Feldpausch:

Claim 1: elements c), e), and especially f)

Claim 2: the third, fourth, fifth, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the "upper closed part" of the sheath opening of claim 4

Claim 5: the first, third, fourth, and fifth elements.

Claim 6: the whole method of claim 6

US 2,652,845 (O'Neill et al. 1953) Combination Portable Beach Tent and Umbrella

This uses an umbrella-like top frame that supports hanging sides forming a hanging fabric tube. The top frame is held up by either an external or internal vertical support pole that hangs the top frame from its midpoint, or by two vertical poles in an inverted U-shaped frame along two diagonally opposed vertical edges of the tube and crossing the top. Sheaths (unlabeled) are apparently provided for sets of stiffening rods 23 and 24, but these sheaths are not continuous, and they have no end openings. They hold the stiffening rods in a permanent end-to-end spaced relationship.

Elements of Applicant's original claims that are lacking in O'Neill:

Claim 1: element c), and especially f)

Claim 2: the second and third elements

Claim 3: the whole method of claim 3

Claim 4: the "opening" of claim 4

Claim 5: the second, fourth, and fifth elements.

Claim 6: the whole method of claim 6

US 2,926,677 (Lalonde 1960) Tent Attachment for Automobiles

This is a dressing blind made of fabric that hangs from a horizontal rectangular frame attached to a car window.

Elements of Applicant's original claims that are lacking in Lalonde:

Claim 1: elements a), b), c), e), and especially f)

Claim 2: the second, third, fourth, fifth, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the "opening" of claim 4

Claim 5: the second, third, fourth, and fifth elements.

Claim 6: the whole method of claim 6

US 4,449,542 (McSwain et al. 1984) Portable Hunting Blind

This is a hanging fabric blind suspended from an umbrella-like top via an external pole with an arm that hangs the umbrella from its central point. The bottom edge of the fabric is staked to the ground. This is similar to O'Neill, and has similar relevance.

Elements of Applicant's original claims that are lacking in McSwain:

- Claim 1: elements a), b), c), e), and especially f)
- Claim 2: the second, third, forth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "opening" of claim 4
- Claim 5: the second, third, fourth, and fifth elements.
- Claim 6: the whole method of claim 6

US 5,430,980 (Ferrier 1995) Collapsible Cubicle

This hanging blind uses a circular band in both the top and bottom of a cylindrical fabric tube. The top band is provided to hang the tube via an external pole, and the bottom band is provided to support the cylindrical shape of the fabric in the wind. This is similar to O'Neill, and has similar relevance.

Elements of Applicant's original claims that are lacking in Ferrier:

- Claim 1: elements c), e), and especially f)
- Claim 2: the third, forth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "closed upper part" of the sheath opening of claim 4
- Claim 5: the third, fourth, and fifth elements.
- Claim 6: the whole method of claim 6

US 5,592,961 (Chin 1997) Portable Booth

This appears less relevant than some of the other prior art found in this search.

Elements of Applicant's original claims that are lacking in Chin:

- Claim 1: elements c), e), and especially f)
- Claim 2: the second, third, forth, fifth, and sixth elements
- Claim 3: the whole method of claim 3
- Claim 4: the "opening" of claim 4
- Claim 5: the third, fourth, and fifth elements.
- Claim 6: the whole method of claim 6

US 6,434,877 (Shelton 2002) Collapsible Hunter's Blind

This is a fabric blind that hangs from two arms extending horizontally from an attachment on a tree trunk. The two arms diverge from the trunk, forming a horizontal V-shaped top frame that creates a triangular tube with an unsupported front panel. Applicant's blind is roomier and better for dressing because it is a square tube instead of triangular. Shelton's fabric is removable from his rods, but not smoothly and easily as Applicant's design, due to hooks 24a, 25a on Sheldon's support rods.

Elements of Applicant's original claims that are lacking in Shelton:

Claim 1: element c) and especially f)

Claim 2: the first, second, third, and sixth elements

Claim 3: the whole method of claim 3

Claim 4: the "upper closed part" of the sheath opening" of claim 4

Claim 5: the first, second, third, fourth, and fifth elements.

Claim 6: the whole method of claim 6